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a man's intents may be, or how ready he may be for self-sacrifice, all his efforts may be unavailing and worse if he does not understand the spirit and needs of the time in which he lives, if he blindly tries to realize a past ideal; (2) that the principles which are to guide society and man to salvation are to be found in the divine, eternally oracular spirit of man himself, not in any external spirit imparting its suggestions sporadically and capriciously, and so setting at naught the hardest-won results of human wisdom. If man himself be not in potency the embodiment of the divine; if he do not belong in his own nature and right to the eternal order; if he be not an active sharer in all that is done in the world, then life is futile, the dream of a dream. And unless man takes his stand on this consciousness, acting and living out of it; if for a moment he doubt his own divine autonomy and take himself for a created being or a cluster of transient phenomena, then his work is doomed to perish, no matter how good his intent may be or by what name he may call himself. If the life and death of Savonarola avail to teach us this lesson, then he did not live or die in vain. He died that we may live.

THOMAS DAVIDSON.

THE MODERN CONCEPTION OF JUSTICE.

MISS F. MELIAN STAWELL, LONDON.

THERE has never been a great word of which the content has altered more than the word "justice." The ideas in that content group themselves roughly round two conceptions: the justice of retribution, and the justice of distribution; that is, the justice of rewards and punishments for the individual regarded as the individual alone, and the justice that distributes good things among many. It is with the second that this essay is ultimately concerned, but the second may best be at-

tacked after an attempt to handle the first. On both points the human conscience seems to have changed its deliverances in a very remarkable way. *Æschylus* and the earlier Hebrews seem to hold it as an absolutely fundamental desideratum that "the doer must suffer" just because he is the doer, and the righteous man must be rewarded just because he is righteous. It would almost seem at times as though poet and prophet would be satisfied in a world where misery and sin remained at the full, so long as the misery was exactly apportioned to the sin.

Now there is doubtless something in this view of permanent value, and the view itself is certainly deeply seated in the human mind. It was this, coupled with the passionate desire that the universe should conform to our ideals, that made men tolerate so long the horrible doctrine of everlasting hell. It was this that made the Hebrew psalmist give the lie to experience and assert that he had never seen the righteous forsaken, nor his seed begging their bread. It was this that could make a scientific observer like Huxley actually speak of Nature as "inflexibly just," though no one could state more clearly than he that the survival of the fittest did not mean the survival of the ethically best.

None the less, speaking broadly, we may say that as the human spirit comes to understand itself, it seems to discover that this apparently simple demand for punishment to the worthless and reward to the worthy is really based on a complex of very diverse elements, some of which must be given up. The most fundamental, perhaps, and the most valuable, is the desire that wrong should not triumph forever: that something should be discovered in the universe stronger than it, something that could master it, and show its mastery by putting the evil instruments, if need be, to destruction.

This comes out very clearly in Carlyle's demand for justice in history: "As at bottom, the question is whether this world is God's or the Devil's." "I should not

have known what to make of this world, if it had not been for the French Revolution." There is nothing in this longing, so far as it goes, that necessarily insists on the suffering of the wrongdoer. All it wants, at bottom, is that the wrong should be mastered and ended.

But this longing is not all. The human mind wants to have it recognized where the bad and good came from. And the first step, it believes, is to recognize the fact that in deliberate action and intention good and bad come from the man who deliberates, intends and acts. An action or an intention is never conceived as going about by itself, with a directing power of its own. If it is bad it cannot be dissociated from badness in the man who intended it. In short, it is conceived in no sense as an isolated quiddity, but as essentially a manifestation of a power that endures before it and after it, a power from which other such manifestations could and will issue. This is the first part of what makes the difference between saying, "the thing is bad," and, "the man is to blame." But there is a second part, and one still more difficult to grasp. Difficult as it is, it cannot be overlooked in any treatment of justice, and even if we cannot grasp it, it may be possible to mark out the nature of the problem more narrowly than before. It is, of course, the old problem of free-will. This, it is clear, has to do with the belief that man is an originator of his own actions, an *ἀρχὴ κινήσεως*, in a sense in which a stone is not. That is to say, he has it in his power to alter them, and he is not, ultimately, in the grip of his past character. Thus there is a mystery in "will" which cannot be explained, it would appear, if we think of man as entirely the product of the past. In some such mystery, at any rate, the conscience of man seems to believe, when it distinguishes the *qualities* of a human being from the *properties* of a stone; when it laughs at the idea of chastising fire because it burns and water because it drowns, while it considers it may be the

highest duty to punish a man for doing the same. In either case it conceives the event to issue from a permanent (at least relatively permanent) "something" that is more than the event, but in one case it believes the "something" cannot alter its inborn tendency to react in a certain way on the stimulus of certain circumstances, and in the other case, the case of the human being, it *can*.

The deepest reason for punishment, then, would seem to be that by bringing home to a man through the pressure of pain the fact that he is the cause of the wrong, he may bestir himself to alter that in him which has caused it. It is not to be supposed, we must be careful to add, that the punishment, of itself, makes the man better; it only gives him the chance to do that for himself. This is important to note, because there is a superficial way of stating the matter which would imply that a man can be made morally better simply and solely by discovering that the consequences of his act are uncomfortable to him. That is certainly to treat a man as if he were a dog, who would obey if he were shown a stick, and for no other cause. But it is quite a different thing to say that punishment, by bringing a man up, as it were, with a round turn, may awaken the reflective consciousness in him, and then that consciousness may, if it chooses, proceed to do its proper work.

In any case, there comes a time, after the thinking world has reached this conception of punishment as remedial, when it begins to ask whether this fundamental appeal from Philip drunk to Philip sober could not be made, and made sometimes with greater effect, by other means than the stimulus of personal pain. It begins to resent the assumption that evil must necessarily be met by counter-evil in the shape of pain to the wrongdoer. It begins to suspect that this may mean a hideous waste, or even worse than waste. For there is always the risk that the man may cease to do the wrong thing only in order that he may avoid external punishment or win

external reward. And this is not to strengthen the ideal elements in his nature, but to weaken and hamper them. All interference that relies in any way on the sanction of force, and hence all State interference (as we know the State) must run this risk. It can never hope to succeed unless it can enlist at least the tacit admission of the culprit that he is in the wrong, and often it fails disastrously. And what holds of punishments holds, *mutatis mutandis*, of rewards: they may turn out to be no better than bribes, just as punishments may be only threats. Hence the grave danger of using either in cases where, as in marriage and religion, the inner motive alone gives any worth to the act.

This growing distrust of punishment and reward provides the first point where the modern conception of justice parts company from the ancient. Plato is at one with the moderns in conceiving punishment as essentially remedial, but he seems to think it the only remedy. The noble passage in the *Gorgias* is based on the conviction that punishment is the one way to cure the disease. The sinner, if he is wise, must long for it as the sick man longs for the surgeon. This broad statement ought perhaps to be modified by admitting the influence on Plato of the Socratic doctrine that reasoning and instruction may turn the eye of the soul from the darkness to the light; but in the main it is true, because Plato would not have accepted ignorance as a plea for the willful wrongdoing that deliberately chose the lower pleasures: that fell disease, he would have said, can find no cure but in the paths of suffering.

There can be no doubt, of course, that suffering often proves a potent cure, and, no doubt, perception of that fact aided the other forces to fix in men's minds the conviction of its desirability, and in religious minds the conviction that it was inevitable. And the further conviction (doubtless in itself correct) that actions were bound to have consequences of some kind or another naturally seemed bound up with the belief that the con-

sequences must always recoil on the head of the doer. Hence there were many factors at work to strengthen that persistent faith in retributive justice of which we have spoken, and fortify it for its defiance of experience. But no faith can persist forever in defying experience, and, as a matter of history, it seems to have been through the clash with hard fact that the great idea of vicarious suffering first arose. It was in exile that the second Isaiah learnt his gospel of the Suffering Servant of God. Through all the extraordinary and horrible perversions of this doctrine it is quite plain that it summarizes not only accurate and shrewd observation but also conceptions far profounder and more inspiring than the legalistic notion of debtor and creditor accounts. Compare for a moment the spirit of Browning's lines—and they are noble lines :

Each as on his own head, failer or succeeder,
Lay the blame or lit the praise, no care for cowards—Fight!

with the spirit of the Hebrew seer :

The sacrifice of our peace was upon him, and with his stripes we are healed.

Nothing ever has gone deeper into the soul of man than those words, and they will go as deep into the modern world as into the ancient, once they are freed from their fettering association with a single superhuman redeemer.

They speak of fact and of ideal, and what they say of both is true. The innocent do suffer for the guilty, and nothing does awaken the saving compunction in the heart of the guilty more than the bare recognition of that. But beyond all actual fact is the realization that what the human heart desires is simply that evil should be got rid of in the speediest way, and if it is necessary for this that the good man should suffer, he will rejoice in the suffering and no one would even wish to rob him of its glory.

Thus there emerge two new ideas, the first, that suffering by the innocent is not "unjust" when it is willingly borne, and necessary—when it is the only path, and the freely accepted path, by which a great good can be attained, even though this situation has been brought about by the wrong action of others; and the second, that the reward the good man works for is not anything for himself alone: what will satisfy the travail of his soul is nothing short of the justification of many. It is plain that we are now in the region of love, atonement, redemption; and however hard it may be to state the intellectual formula in a simple and luminous fashion, it is equally plain that the "justice" of purely personal reward and punishment can never satisfy the human heart in the way that the triumphant unmerited suffering of the redeemers can. None of those who owe anything to the love and suffering of others (and who does not?) can bear for a moment the idea of paying off the debt. They would as soon annihilate the heroism of a soldier by way of recompense. They know well enough that the only recompense such soldiers want is that they should be allowed to bring home the captives they have freed. Like other good things of life—like love, which is valueless if given or claimed as a right—redemption is lifted entirely out of the category of desert. Instead of desert appear the ideas of comradeship, brotherly love, pity and succor—the whole cycle of what Herbert Spencer might call "the justice of the family," as opposed to "the justice of the State." Punishment and reward in the old sense remain only as possibly serviceable tools.

The conception held by Aristotle that the good ought to rule, just because they are good, that it is their right, passes away. The good do not want to perpetuate the principle, "To him that hath shall be given, and to him that hath not," etc.; they want exactly to reverse it: "My brother, the brave man must *give* his life away." They will not be satisfied even with the subtler doctrine

of reward being apportioned not to achievement but to effort. To use the old, beautiful language of parable, they will have more joy over one sinner that repenteth than over ninety-and-nine just persons that need no repentance; they will kill the fatted calf for the prodigal and not for the elder brother; give exactly the same penny to the laborers at the eleventh hour and to the men who have borne the burden and heat of the day. They may admit that the view concentrating attention on effort rather than on achievement is an advance on the view that holds because a man is more richly endowed at the start, therefore, though he make no greater sacrifice than anyone else, yet it is just that he should attain to greater good. And they would admit also that it is an advantage to concentrate attention on this mysterious power of effort and will, because it is the most important thing in man and the one hope for the renovation of the world, the one spring on which the work of the statesman must depend for its success. But all this does not ultimately affect the spirit of the ideal philanthropist in the least. He is every whit as anxious to save the sinner as to aid the incompetent; and the idea of gaining any more ideal good for himself in the end than he would gain for every one of his fellows, the lowest and the basest included, is utterly and forever repugnant to him.

Thus there begins to emerge, as the only thing that would really satisfy the hunger for "justice," the vision of Kant's Kingdom of Ends, the kingdom in which every single person would attain the fruition of perfect good, and none would be before or after another. Every one would then really be an end in himself, and no one would be treated as a mere means, no one only "subserve another's good."

But when we come to work out this ideal in practice—and no ideal is worth much if it cannot stand that test—we shall find that it makes a great difference whether we follow it up by another conviction or not. That con-

viction is the conviction of immortality, and of an ultimate all-inclusive heaven to be attained through the effort of man. This seems a bold statement, almost paradoxical, in view of the fact that the conception of justice we have reached is essentially modern and democratic, and that most moderns and many democrats repudiate any belief at all in personal immortality. But none the less they appear to nurse hopes, to make plans, to demand efforts, in a way that can only be justified in the name of that love which is also justice, that universal benevolence on which democracy prides itself, if the full "amplitude of time" is available for every man.

But before setting this out at length it may be well to explain in greater fullness what is meant by the democratic ideal of the Kingdom of Ends. And perhaps that may best be done by contrasting it with the utilitarian ideal in its simple, crude, Benthamite form, where the greatest happiness of the greatest number is the standard, whatever the quality of the happiness, and every one counts for one, and no one for more than one. The Kantian ideal differs from this not only in allowing differences of worth in pleasures apart from their quantity, but also in making a profound and ultimate difference between the pleasure in one individual and the pleasure in another. From the point of view of justice this last difference is all-important. Taking the Benthamite formula as it stands, there is no reason whatever why $2x$ amount of pleasure in the individual A and none in the individual B should not be just as satisfactory an ideal as $1x$ amount in A and $1x$ in B, and yet, from the standpoint of justice, the second distribution alone is right and the first is horribly wrong.

Now it is obvious that if the Kingdom of Ends was attained in a perfectly harmonious world nothing would be called for but to enjoy the result. But in this imperfect world it is equally obvious that some, or rather countless, individuals must fail of the full fruition of good—must, as we say, "be sacrificed," if we are to

advance nearer to the goal for others. Yet if each man is an end in himself, can it be said that it is right to sacrifice any? (This question, it may be noticed, coincides in some important respects with the dilemma put by Sidgwick at the end of his *Methods of Ethics*.)

The first answer would appear to be that though sacrifice can be claimed, and claimed justly, under this ideal, it is only on one of two conditions. Either we have to assume immortality, in which case no sacrifice of the individual need be an ultimate sacrifice, but only a renunciation for a time, and that for the sake of the speedier attainment of everlasting good: or we can allow that a man who made a willing sacrifice of himself—who, let us say, died deliberately, without hope of immortality, in order to attain the good life for his fellows (Aristotle's instance)—did in that one glorious moment realize the greatest good for himself that his life was capable of.

This would depend on the conviction (which is not definitely expressed in the Kantian formula, but which seems in no way incompatible with it) that the happiness of two Ends-in-themselves (given the same quality of happiness) was a more reasonable thing to aim at than the happiness of one. The one man, then, in aiming at the more reasonable end, would be actualizing the life of reason in himself, and therefore, even in annihilating himself, would not be treating himself as a means but also as an end. Set out in this formal fashion heroism may sound a mere matter of arithmetic, but there is no reason to boggle at that. One of the ultimate significances of arithmetic might very well be to provide the framework of generosity, and perhaps all things are capable of being numbered and individualized just for the sake of love.

But what of the man from whom an unwilling sacrifice is demanded and exacted? However much the act may be in the service of reason, if he is not acting willingly, it cannot be said that the life of reason is actual-

ized in him at all. How then can we avoid treating him as a means and not as an end in himself if we insist on sacrificing him against his will, or any part of him, to win, say, the good of generations yet unborn? And, if we give up as a *chimera* this ideal of "every man an end in himself," it would seem that in certain crucial cases we have nothing left to decide by but the amount and quality of happiness at large, whether that happiness exists in different individuals or not. This would hold, even if we were to take account of the intermediate view that up to a certain point one man's happiness might be sacrificed to another or to others, but that there was a limit at which we must pause; for there were certain primitive goods, "the lack of which in the life of an ordinary man could not be compensated by the exceptional satisfaction, however intense, of the privileged few, however gifted."¹ And even this position would be hard to maintain in face of any able defense, say, of the brilliant Greek civilization, based on slavery, or the glorious rush of life in the Renaissance, with its background of cruelty and lust. And, it may be added, such a defense is only the more telling the further we pass from an estimate of gross material pleasures to an appreciation of the finer joys of intellect and art. It is in large part the sense of these latter, of their value, of their rarity, and of their necessary cost, that gives force to the neo-aristocracy of Nietzsche's followers. Are not these fine and high pleasures in themselves so valuable that they outweigh countless lesser pleasures of lesser men?

Thus, odd as it sounds, the principle of Benthamism (without this all-important qualification of individuals as ends in themselves) might lead straight to what Professor MacCunn has neatly opposed to it as Brahminism, the principle expressed by the Brahmin to Sir Henry Maine, "that the happiness of one Brahmin was worth

¹ J. MacCunn, *Six Radical Thinkers*, p. 29.

at least the happiness of twenty ordinary men" (*op. cit.*, p. 24). This sense of the worth of the abler men, if we add to it the idea of desert, seems to be the basis of Aristotle's justification of slavery; the modern aristocrats would differ from him only in disregarding that idea: we do not know, they would say, and we do not care whether the ablest men *deserve* the good things or not; in any case so much intensity and splendor of life is thus attained that it is better they should possess them; the right to them is the right of the greatest enjoyment; and that right is enough.

But this is to give up entirely the conception of justice we have outlined, and to do this is abhorrent to the modern spirit. Yet it would shrink from making a final choice between the brilliant individuals, the splendid "great men," and the humdrum life of prosaic, widespread satisfaction in multitudinous red-brick villas. It usually takes refuge in the hope that no such choice need be made; that somehow it will all be right "in the end," and that the welfare of each does really mean the welfare of all. It is one of the contentions of this essay that this hope, which the human mind seems driven to cherish, is only justified on a basis of immortality. Yet so great is the present distrust of the topic that it is possible, and even highly probable, that to most readers the idea of considering immortality as affecting the problem of political and social justice will seem fantastic, and the whole discussion academic and futile. And yet on the face of it it does not seem fantastic to say that it must make a difference to the plans of a father of his people if he thinks all are going to reach their journey's end, or if he knows that some are bound to drop on the way and never get any return for all that he makes them suffer; unless, indeed, he is not to be a father, but a Napoleon, and to look on men as mere tools, and that is what we have decided he cannot do.

The impatience with the subject seems to spring in the main from three reasons: the first, and the most

potent, being that we are unable to decide for certain whether immortality is a reality or not, and still we have got to act and be as just as we can. But this does not really affect the position; for the fact that we are unable to give a decisive answer cannot logically make a question any the less important. We may wish it did, but it is worth repeating the platitude that wishes will not alter the logic of a case, though they often lead to thrusting it out of sight. The second cause, less potent but still influential, is that the conception of immortality has been thought to render all attempt at social betterment in this little life quite unimportant and trivial. If it will all be "put right" in another stage of existence, why trouble so much about it now? But this question has force only if we take a peculiar and what is now felt to be a childish view of immortal existence: the view, namely, that all is to be "put right" by a purely external Being, and without any further effort in any sense on the part of individuals. Once this conception is given up, immortality comes to be conceived not so much as a reversal of this life as a chance of working out its factors in a larger sweep and with a larger scope. It then becomes, if possible, more important than ever to begin the working-out as speedily as can be. But then it is surely undeniable that on consideration it must appear also of great moment, from the point of view of individuals, whether we believe that we have this infinite scope, so far as they are concerned, for the working-out or not. And justice must take the point of view of individuals. The third reason is that up to a certain point, no doubt, it makes no difference whether we believe in immortality or not. But up to a certain point it makes no difference whether we are hedonists, utilitarians or idealists, because the standards up to a certain point do coincide. And yet there are important dividing lines. So here, a vast amount of suffering and sacrifice is entirely unnecessary, from each and every point of view. No one is the better for the sweating

dens, and the sweated are only the worse. There is a vast amount of luxury that is almost entirely bad; there is also a vast amount that, however delightful and harmless in itself to the possessor, neither increases the total sum of enjoyment nor the quality of it, nor could reasonably be held to hasten the coming of that city of God which is also the City of Friends. But there is also a vast number of sacrifices and deprivations that we exact from individuals, against their will, which are not unnecessary if, as we say, "civilization is to advance." Have we any right to do this in the name of Justice, if the advance is meaningless to them?

We may possibly save ourselves for a time from having to answer this by averting our eyes from the real world, and conceiving an ideal Republic such as Plato's. There we suppose ourselves capable of so arranging a community that everyone in it, although they do not by any manner of means all attain an equal share of "the good life," yet all attain as much as they are capable of. But to believe this possible we have to believe our rulers possessed of a wisdom yet unknown (as Plato saw), and our world of space and time rich and commodious in a way never yet experienced. The stupendous nature of the wisdom and wealth required will become clearer if we consider for a moment the modern ideal of "the good life." It is not simply the ideal of brotherly love alone, as it might have been for a Buddhist or an early Christian (though it includes such love as an indispensable and indeed dominating element). Nor, plainly, is it the mere provision of physical health and comfort under the rule of such love; that too might be a comparatively easy matter. It is the attainment as well of the highest possible standard in countless forms of art, knowledge and emotion. A moment's consideration brings before the mind how many of these—music, say, or mathematics—require wealth, leisure, opportunity and incentive for effort, a whole *χαρητήρα*, which, with our slender resources, is

only available for the few. Whatever the principle on which we select the few, how in the name of that justice which is love (the only satisfactory kind) are we to answer the numbers whom we have stinted, without their consenting to it, of the comforts they might have enjoyed? With the belief in immortality, we can say: "Wait, and the prize we are fighting for will be yours as much as ours. We take this sacrifice from you because it is the only way to reach the goal we all desire." But if they can never reach the goal, it is little short of a mockery to tell them to wait. We cannot feel, as Plato and Aristotle seem to have felt, that an enforced self-denial was, for those who could not reach voluntary self-sacrifice, the highest possible good. Our modern sense of liberty is too sharp for that—our sense, that is, of the worthlessness, except as a means to an end, of what a man does not freely choose. On one condition alone is it conceivable to say that, beneath the discipline of education and deprivation, a man, even though he rebels against it, may be a higher being in so far as he is moving to a higher end, and that condition is that he himself should at last realize something of the end. But if not, he is not a higher being—he is only, at most, a better tool. A concrete instance may drive this home. Who can doubt that numbers of people are not only less happy, but actually less morally good, through being taught to read, to labor in factories and to live in cities? If there were no immortality, the Chinese refusal to purchase the gains of our civilization at its price might well stand as the more humane decision.

Nor can we avoid the problem by saying, even if we knew for certain that there was no such thing as immortality we could still act as though we believed in it and hold those things as just which tended to produce a state of things as near the ideal condition as possible, even though that ideal condition was nothing but a phantom goal. What does it matter, it might be said,

whether the ideal pattern which we take as our norm is ever to be in actual existence or not? This pattern is the ultimately desirable thing, and the nearer we get to it the better we are, whether we ever reach it or not. When we have to choose between the many and the few, let us choose that course of action which would increase the desire for heaven in the minds of men, even though there is no such place.

But in any case this argument could not justify the exaction of unwilling sacrifice, or punishment, except wherever it could be shown that the individual in question was no worse off for the time than he would otherwise have been. And it slurs over the question already insisted upon as vital, the very question of fair distribution. Perhaps this may best be brought out by supposing that in either case—immortality or annihilation—the will to brotherly love was incarnate in all men. What, in either case, would be its commands? Surely, if death ended all, that the advance must be very slow, slow enough to allow all to share it equally now. The gains of science and of art, that are no gain to the present, must be postponed, in mercy to the individuals who will never reap the benefit. Even suppose the sum total of happiness less in the end, better that than a distribution which left some starving who might have been filled.

The only alternative to this lies in a belief at least as daring as, and much less satisfactory than, the belief in immortality—the belief in what may be called the Positivist heaven; the belief that those in the future who are to inherit a better earth will be so many in number that the sacrifice of those who preceded them would be approved by the good will. And this, it should be remembered, must be a willing sacrifice. Otherwise the “good life,” whatever else it contains, cannot contain as its guiding principle the spirit of human love. For that is bound up with individuality; it believes instinctively that the mysterious barriers

which make individuality, though sometimes they seem to divide, really unite us; and therefore above all else it reverences and respects these. And justice, if it is to be satisfactory, must do the same.

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THE DRAMATIC AND ETHICAL ELEMENTS OF EXPERIENCE.

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THE subject of this paper is one which experience is constantly suggesting to the reflective mind. The problem it raises is one of the most perplexing in practical life, and touches some of the profoundest issues of philosophy. At this time I wish to consider a few aspects of the subject, more by way of an introduction to the problem it involves than anything more comprehensive. I shall not try so much to offer a solution of the various questions it raises. That would carry us further into metaphysics than would be desirable in this paper. I shall rather undertake the simpler task, but by no means the least important task, of stating the question as clearly as I can, and of seeing what the issues involved are, and what a solution has to attempt to accomplish. In philosophy as in practical life, much, indeed a very great deal, is gained if we can only see clearly what we want to do, and what we have to aim at.

The problem is not a matter merely for academic discussion. It faces us every day, as we shall see at once if we consider certain situations, involving quite different judgments about human action. A man, *e. g.*, aims at fulfilling a comprehensive moral purpose, the reform of a social evil, the cure of a disease that is sapping the life of thousands, the accumulation of a store of wealth, the